

SUPREME COURT OF INDIA  
RECORD OF PROCEEDINGS

WRIT PETITION (CIVIL) NO(s). 91 OF 2001

RAM CHAND & ORS.

Petitioner(s)

VERSUS

STATE OF HARYANA & ORS.

Respondent(s)

(With appln(s) for clarification/modification of court's order and party,permission to place addl. documents on record and office report ) impleading

WITH W.P(C) NO. 88 of 2002

(With appln. for ex-parte stay and stay)

Date: 20/09/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. MATHUR

HON'BLE MR. JUSTICE MARKANDEY KATJU

For Petitioner(s) Mr. Pradeep Misra,Adv.

Dr. Krishan Singh Chauhan

For Respondent(s)

Mr. S.R. Singh,Sr.Adv.

Mr. Raj Kumar Gupta,Adv.

Mr. G.V. Rao,Adv.

Mr. Ashok K. Srivastava ,Adv

Mr. Vimal Chandra S. Dave ,Adv

Ms. Kavita Wadia ,Adv

Mr. Kamlendra Mishra ,Adv

UPON hearing counsel the Court made the following  
ORDER

Not for today.

(Ganga Thakur)  
PS to Registrar

(Vijay Dhawan)  
Court Master

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.5823 OF 2000

RATHINDRA N. CHATTOPADHYAY & ANR.

...APPELLANT S)

Versus

STATE OF WEST BENGAL & ORS.

..RESPONDENT  
(S)

ORDER

This appeal is directed against the judgment and order dated 14.5.1999 passed by the Division Bench of the High Court in WPST No. 225/98.

Briefly stated the facts are as follows:

The appellants were recruited directly in 1984 and are working since then as Statistical Assistants under the Directorate of Employment Exchange, Labour Department. The controversy involved in this appeal is with regard to the promotion to the post of Employment Officer. Undisputably Statistical Assistant is the feeder post for promotion to the post of Employment Officer. Their requisite qualification for promotion to the post of Employment Officer is six

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years continuous service in the respective feeder post. In the combined seniority list as on 30.6.2000 of Junior Employment Officer, Superintendent and U.D. Clerks of the Directorate of National Employment Service, West Bengal, Superintendent and U.D. Clerks of the Regional Employment Exchange and U.D. Clerks of the Sub-Regional and District Employment Exchanges, Inspector of Statistics and Statistical Assistants, the appellants are placed at serial No.214 and serial No.216 respectively in the said seniority list. It is contended by Mr. Sanyal, learned senior counsel appearing for the appellants that in view of the clubbing of the seniority along with others, the scope of promotion of the appellants to the post of Employment Officer is stagnated, although, it is contended that, they are better qualified and have put in continuous service of about 23 years as Statistical Assistants.

In this connection Mr. Sanyal has invited our attention to the Recruitment Rules framed under the proviso to Article 309 of the Constitution dated 2nd March, 1976 (hereinafter referred to as 'Rules').

Rule 3 deals with the method of recruitment to the

service.

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Rule 3 provides:

(a) By selection (direct recruitment) on the results of the WBCS(EX) and allied etc. examination for Group-'A' services and posts; and

(b) By promotion from the following services and posts subject to the fulfilment of conditions for promotion as noted below:

(a) Junior Employment Officer-upgraded and amalgamated with the post of E.O.

(b) Superintendent and U.D. Clerks of the Directorate of NES, West Bengal.

(c) Superintendent and U.D. Clerks of the Regional Employment Exchange and U.D. Clerks of the Sub-Regional and District Employment Exchange.

(d) Inspector of Statistics.

(e) Statistical Assistants.

It is vehemently contended by Mr. Sanyal that Rule 3 of recruitment of Employment Officers is arbitrary, irrational and discriminatory and, therefore, it is ultra vires of the Constitution. This point has been raised by the appellants in the aforesaid writ petition, a copy of which has been placed before us pursuant to our direction. From the perusal of contents of writ petition, it appears that specific contention has been raised in paragraph 16 D of the writ petition. Further the plea is reiterated

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and stressed in ground Nos. 13, 14, 15 and others.

Mr. Sanyal has taken us through the entire Judgment rendered by the Division Bench. Although the Bench recorded the contention as also the impugned Rule dated 2nd March, 1976, particularly Rule 3 has been quoted in extenso in its Judgment. No decision has been rendered by the Division Bench on the issue of Rule 3. In other words, the main contention raised by the appellants in writ petition has not been answered while dismissing the writ petition. In short the grievance of the

appellants raised in the writ petition has not at all been dealt with on the question of legality or otherwise of Rule 3.

This being the view, we are unable to sustain the impugned order of the High Court being challenged in this appeal. The order dated 4.5.1995 passed by the Division Bench in WPST No.225/98 is not justified in law. It is accordingly set aside. The appeal is allowed. We, however, remit the matter to the file of the Division Bench of the High Court The Division Bench of the High Court shall restore the writ petition to its original number and dispose of the same in accordance with law after recording finding on the issues raised before it. Having regard to the

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fact that the appellants are fighting litigation since the year 1990, the High Court is requested to dispose of the writ petition, if possible, within four months from the date of the receipt of the order.

With the aforesaid directions/observations the appeal is allowed. No costs.

(H.K. SEMA)

.....J.

.....J.  
(LOKESHWAR SINGH PANTA)

New Delhi,  
September 18 ,2007.